

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ADAM PRITCHARD, et al.,
Plaintiffs,

v.

Hon. Hugh B. Scott

04CV534C

Order

THE COUNTY OF ERIE, et al.,
Defendants.

Before the Court is a continuation of discovery motion practice related to production of certain privileged documents; here, plaintiffs move to compel (Docket No. 110, May 18, 2006) the County Defendants¹ to produce documents ordered by the undersigned (Docket No. 78; see Docket No. 25) and affirmed on appeal to Judge Curtin (Docket No. 106). Defendants sought unsuccessfully a stay of Judge Curtin's Order to allow them to appeal the Order to compel to the United States Court of Appeals for the Second Circuit (Docket Nos. 107, 113; see also Docket No. 109). The Order denying the stay application referred plaintiffs' motion to compel to the undersigned for scheduling and disposition (Docket No. 113).

The latest Scheduling Order in this case (Docket No. 103, Order at 9-14) set class certification discovery to be completed by May 1, 2006, with class certification motion by

¹As previously used in this action, the term "County Defendants" refers to the defendants Erie County, former and current Erie County Sheriffs, and certain Sheriff's Department officials responsible for management of the Erie County Holding Center and Erie County Correctional Facility, save separately represented defendant H. McCarthy Gipson. Docket No. 78, Order at 1 n.1; see Docket No. 106, Order at 1 n.2.

July 10, 2006, with all discovery to be completed by September 12, 2006, and dispositive motions by December 27, 2006 (id. at 12-13, 13-14). That Order expressly stated that no further extensions of these deadlines would be granted (id. at 13, 14) and the Court concluded there that it “expect[ed] going forward timely completion of discovery and motion practice and ultimately progressing this case to the merits” (id. at 13, citing Docket No. 52, Order of Sept. 26, 2005, at 35).

Meanwhile, counsel for the County Defendants wrote to Judge Curtin requesting a brief period to respond to plaintiffs’ motion (Docket No. 112, letter of May 19, 2006). Any response would essentially be a motion for reconsideration and (given the stated positions of the parties) any disposition here would be appealed. Given the familiarity with these prior motions, the arguments therein, and Orders and the fact that this motion to compel seeks the same relief sought in the earlier motions, briefing was not held and the County Defendants’ request (Docket No. 112) is **denied**.

The present motion seeks to culminate plaintiffs’ attempt to obtain certain privilege log documents that two judges of this Court have held should be produced. The County Defendants, while seeking a stay while they prepare an appeal, to date have not filed a notice of appeal or moved for a writ of mandamus. There is no reason for this Court to delay production of these documents. Therefore, plaintiffs’ motion to compel (Docket No. 110) is **granted**; defendants

shall produce the documents sought forthwith, barring relief from another court. The County Defendants' application for time to brief this motion (Docket No. 112) is **denied**.

So Ordered.

/s/ Hugh B. Scott
Honorable Hugh B. Scott
United States Magistrate Judge

Dated: Buffalo, New York
May 22, 2006